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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,070	02/12/2002	Rajesh Kumar Varma	GLS-021	6677

7590 09/26/2005

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EXAMINER
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MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/074,070

Applicant(s)

VARMA

Examiner

Jeffrey C. Mullis

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,6-11,13-18 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-11,13-18 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 1711

Applicants are requested to delete the entire partial sentence at page 7 line 12 "For compliance ...phone" since it appears to be irrelevant and makes no sense.

Claims 1, 2, 4, 6-11 and 13-18 and 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "polymono(lower) olefin" in the independent claims is unclear in that "lower" is subjective.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4 and 22 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vermeire et al. (US 5,278,220).

See the previous Office action at the paragraph bridging pages 3 and 4 et seq.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vermeire et al., cited above.

See the previous Office action at the last complete paragraph on page 4 et seq.

Applicant's arguments filed 7-5-05 have been fully considered but they are not persuasive. With re to the range of 2-4 carbon atoms, the specification merely says these are "preferably" used not that they are to be viewed as "lowerA". Conceivably by "lower" applicants could have meant 2-6 carbon atoms but that the narrower 2-4 carbon atom range was preferred.

Art Unit: 1711

With re to Vermeire, unpatented claims are given their broadest reasonable interpretation and even assuming for the sake of argument that full weight should be given to "sealant" this term can refer to anything capable of sealing under any circumstances. In fact a cable coating such as is disclosed by the patent can be viewed as sealing the cable against the elements even including the materials present in the patent which are not recited by the claims. The issue of the problem solved by patentees is irrelevant to anticipation. With re to applicants argument that "there would have to be a suggestion that the disk be held within a bottle cap" is irrelevant where the claims are not drawn to disk/bottle cap combination or a process of sealing a bottle. Applicants argue that the term consisting essentially of excludes plasticizer other than polybutene oil, but this allegation is applicants burden to prove. The term "consisting essentially of" only excludes those materials which materially affect the novel and basic characteristics of a composition and it is applicants' burden to prove that such characteristics are changed by the presence of additional materials recited in a prior art product. Note In re Janakirama-Rao, 317 F. 2d 951, 137 USPQ 893 (CCPA 1963) and In re De Lajarte, 337 F. 2d 870, 143 USPQ 256 (CCPA 1964) in this regard.

Claims 7-9,11,13 and 14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1711

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

JCM

9-19-05

**Jeffrey Mullis**  
**Primary Examiner**  
**Art Unit 1711**

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a final vertical stroke.